

**REMARKS**

Claims 1-18 are pending in the current application. Of those claims 1, 9, 13, and 17 are independent claims. New claims 17-18 are added by this Response. No claims are amended or canceled by this Response.

**Allowable Subject Matter**

Claims 6 and 10 are indicated by the Examiner as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Claim Rejections under 35 U.S.C. § 103(a)**

Claims 1-5, 7-9, and 11-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's alleged admitted prior art (herein AAPA) in view of Terry et al. (2004/0027997, herein Terry). Applicant respectfully traverses this rejection.

The Examiner in his "Response to Arguments" section at pages 2-3 of the current Office Action maintains his rejection under AAPA and Terry, asserting that Terry discloses at paragraphs [0016] and [0025]-[0026] "Node B monitors a selected quality indicator and calculates a capacity allocation for the buffer based on the selected quality indicator." Applicant respectfully submits that the Examiner is continuing to misinterpret Terry.

Terry discloses at paragraph [0016] "The Node B monitors a selected quality indicator and calculates a capacity allocation for the buffer based on the selected quality indicator." Terry discloses at paragraph [0024] "The Node B 54 receives the capacity request and monitors the selected quality indicator (step 60)." Terry further discloses at paragraph [0025] "Regardless of whether there is one or more multiple buffers, an indicator which indicates the amount of data within the buffer is generated internally within the Node B. This permits the Node B 54 to

monitor the amount of data within the buffer, and also to monitor the amount of additional data the buffer may accept.” Therefore, Node B is clearly concerned with **the amount of additional data the buffer may accept** for the buffer’s given capacity. Node B is not concerned with “adaptively **adjusting** respective buffer capacities” as required by claim 1.

In particular, Terry discloses at paragraph [0026] “The Node B 54 calculates and transmits a capacity allocation (step 64) to the RNC 52. The capacity allocation is an authorization by the Node B 54 to permit the RNC 52 to transmit a certain amount of data. The RNC 52, upon receiving the capacity allocation, transmits the data in accordance with the allocation (step 66). That is, the RNC 52 sends data to the Node B 54, the amount of which may not exceed the capacity allocation.” Therefore, the capacity allocation in Terry is clearly **a certain amount of data**, i.e., an amount of additional data the buffer may accept buffer may accept **without exceeding the capacity of the buffer**. The capacity allocation does **not** cause the buffer to change its overall capacity, e.g., a maximum capacity of the buffer, the capacity allocation is merely an indication of how much space is left in the given capacity of the buffer.

Applicant recognizes that Terry discloses at paragraph [0026] “The Node B then adjusts its buffer accordingly to receive and store the data (step 69). The amount of data stored in the buffer will change in accordance with the incoming data that is transmitted from the RNC 52 and the outgoing data that is transmitted to the UE 82.” However, Applicant respectfully submits that the Node B in this case is clearly, especially in light of the portions of Terry discussed above, **not** adjusting the overall buffer capacity. To the contrary, the Node B merely adjusts **the amount of data stored in the buffer**, i.e., “allocates” an amount of additional data the buffer may receive within the buffer’s given capacity. Terry does not adjust a respective **capacity** of the buffer.

The Examiner further asserts that Terry teaches that “the method shown in FIG. 3A is constantly repeated,” clearly implying that buffer capacities are being adaptively adjusted according to quality indicators. Applicant disagrees. The method shown in FIG. 3A is constantly repeated because the amount of data stored in the buffer changes, and therefore the amount of additional data the buffer is capable of accepting (i.e., within its given capacity) also changes. Therefore, the method shown in FIG. 3A is constantly repeated so the Node B may calculate an updated capacity allocation.

Accordingly, Applicant respectfully submits that Terry fails to disclose, teach, or suggest “**adaptively adjusting** at least one of: a number of the buffers allocated to each of the endpoints based upon the buffer utilization, and **respective buffer capacities of the buffers** allocated to each of the endpoints based upon the buffer utilization, respectively” as required by claim 1. Further, even assuming for the sake of argument Terry and AAPA are properly combinable (which Applicant does not admit), AAPA fails to cure the deficiencies of Terry discussed above, and therefore, claim 1 is not rendered obvious by AAPA in view of Terry. Claims 9 and 13 contain features somewhat similar to those discussed above in regards to claim 1, and therefore, claims 9 and 13 are patentable for at least somewhat similar reasons as claim 1. Claims 2-8, 10-12, and 14-16, which depend from one of claims 1, 9, and 13, are patentable for at least the same reasons discussed above in regards to claims 1, 9, and 13 as well as on their own merits.

In view of the above, Applicant respectfully requests the rejections under 35 U.S.C. § 103(a) be withdrawn.

#### **New Claims**

New claim 17 recites inter alia “adaptively adjusting: a number of the buffers allocated to each of the endpoints based upon the buffer utilization.” Applicant respectfully submits that

AAPA and Terry fail to disclose the above noted feature of claim 17, and therefore, claim 17 is not rendered obvious by the combination of AAPA and Terry. Claim 18, which depends from claim 17, is patentable for at least the same reasons discussed above in regards to claim 17 as well as on its own merits.

### CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the claims in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

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